



MAR 24 2005

Ms. Francine Hall  
President  
Si Tanka University  
435 North Elm Street  
P.O. Box 220  
Eagle Butte, South Dakota 57625

Dear President Hall:

This letter is in response to your request to receive funding for Si Tanka University, for academic year 2004-2005, pursuant to the Tribally Controlled College or University Assistance Act, also known as Public Law 95-471.

I appreciate your efforts to find a positive way to achieve qualification for 471 funding. The Office of Indian Education Programs (OIEP) has been working with you during this entire school year in an attempt to address the qualification status of Si Tanka University. Based upon the information provided to date it appears that the situation has not changed materially from August 2004. The incorporation of the Huron campus into Si Tanka University has prevented qualification for funding pursuant to PL 95-471, for school year 2004-2005, due to the lack of a majority Indian student population.

#### Background

The requirements for 471 funding are well known and were in place before the academic year began. In pertinent part, the requirements include accreditation and a student population, the majority of whom are Indian. All tribally controlled colleges and universities must meet these statutory requirements to become eligible for 471 funding.

On August 23, 2004, you notified Ed Parisian, Director, OIEP, that Si Tanka University did not meet the statutory requirements for 471 funding due to an insufficient population of Indian students and you sought a waiver. On August 26, 2004, Mr. Parisian replied that the statute did not provide the flexibility for OIEP to waive the requirement for a majority Indian student population. Since August, the parties have met or discussed this situation on many occasions.

On March 8, 2005, you asked me to become involved to assess the situation. During the two hour meeting with a broad group of individuals representing Si Tanka University and OIEP, we discussed the history of this issue and the options to be considered.

The first option was quickly discussed and dismissed. It is my recollection that we collectively determined that Si Tanka University, as a single institution with two campuses, still did not qualify for 471 funding due to the continued lack of a majority Indian student population.

The other option that was extensively discussed involved the possibility of finding that Eagle Butte and Huron were separate institutions. If that conclusion could be reached, then we could evaluate whether the current accreditation would be sufficient for Eagle Butte to qualify for 471 funding (the Huron campus clearly would not qualify). Subsequently, various representatives of Si Tanka University provided documentation regarding the legal status of the institution.

### Assessment

I have considered the documentation associated with this situation carefully and I have made a number of inquiries with the various parties associated with this issue during the past two weeks. The legal analysis, tribal charter, state charter and other information provided was helpful and informative regarding the point of view that Si Tanka University, the tribally chartered institution, should be considered separately from Si Tanka University, the state chartered non-profit institution.

However, I have found that the more consistent view of Si Tanka University is as a single institution with two campuses and that the option of considering Eagle Butte and Huron as two separate institutions is the anomaly. Key items leading to this view include:

- Although the documentation points out unique features for each campus, the charters for each campus are similar (if not the same), the legal name and address is shared, the senior management is shared, and administrative services are shared.
- Your August 23, 2004 letter states, "Si Tanka University is one university with two campuses. All of the administrative functions, personnel, financial administration, and executive functions are conducted on the Eagle Butte campus."
- Your December 10, 2004 letter to Secretary Norton states, "The University has two campuses – one on the Cheyenne River Sioux Reservation in Eagle Butte, South Dakota, and one in Huron, South Dakota, off-reservation. The Huron campus was formerly home to Huron University which Si Tanka purchased and merged into Si Tanka University in 2001."
- On the Si Tanka University web-site, the History section states "Si Tanka College purchased Huron University in April of 2001. The two institutions merged into one organization. Si Tanka College became Si Tanka University with campuses at Eagle Butte and Huron." Further, the web-site cites the benefits of merging into one institution including, "Cost savings and economies of scale resulting from eliminating duplicate costs through shared corporate governance and administrative functions" and "Increased student enrollment and a more diverse student population contributing to fiscal stability through two small institutions combining to achieve critical size more rapidly".
- The "Message From The STU President, Francine Hall" section of the web-site includes the statement, "Si Tanka University is a two-campus system with an on-reservation campus at Eagle Butte and an off-reservation, residential campus at Huron, South Dakota. We are working to blend the traditions of a 121-year old mainstream institution with the cultural life, ways and values of the Lakota Oyate."
- The web-site states, "In April 2001, Si Tanka University was granted accreditation at the 4-year degree level from the Higher Learning Commission of the North Central Association of Colleges and Schools." I spoke to Dr. John Taylor, Director, of the Higher Learning Commission (HLC) regarding the accreditation. It was his understanding that the accreditation was granted to Si Tanka University as a single institution with two campuses. He seemed surprised that OIEP was considering the possibility that HLC

- Local press stories appear to portray Si Tanka University as a single institution with two campuses. Incidentally, one story included a curious comment from a tribal representative, "But Si Tanka is using the accreditation it acquired when it purchased Huron University. If it has to seek accreditation for its Eagle Butte campus, "I don't know if that's going to work out or not." [See "*Closing Si Tanka Possible*", Sioux Falls Argus Leader, March 2, 2005]
- Mr. Bruce Jones, USDA Rural Development Director, described the current state of affairs affecting the Huron campus. He seemed surprised that the Huron campus was being portrayed as a separate institution from Si Tanka University. Please note that although the impending default on the bank loans and the associated USDA loan guarantee, tax liens and other creditor liens associated with the Huron campus are a concern, I did not consider it germane to deciding the single vs. two separate institutions issue.

### Conclusion

The separately chartered institutions concept was creative and in the absence of contrary data may have provided a mechanism to partially address this situation.

However, the weight of evidence points to a concerted effort by Si Tanka University to position itself as a single institution with two campuses. The result, at this point in time, is that Si Tanka University does not qualify for 471 funding. With that in mind, please consider carefully the steps that need to be taken to prepare for school year 2005-2006. This situation must be resolved if you plan to qualify for and then seek 471 funding. The responsibility for meeting the statutory qualification requirements rests with Si Tanka University. Once the statutory requirements are met, OIEP will be pleased to resume its longstanding funding relationship.

Sincerely,



James E. Cason  
Associate Deputy Secretary

cc:      Mr. Harold Frazier  
          Chairman  
          Cheyenne River Sioux Tribe